



RESOLUTION 2010-034

A RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF SHERWOOD AND WASHINGTON COUNTY RELATING TO THE USE OF MSTIP FUNDS FOR THE CONSTRUCTION OF SW ADAMS AVENUE

WHEREAS, on Dec 20, 2005, the Washington County Board approved a list of projects to continue funding of the Major Streets Transportation Improvement Program 3C (MSTIP3C); and

WHEREAS, on July 27th, 2010, the county Board in coordination with the cities of Tualatin and Sherwood and Metro, identified Adams Avenue in Sherwood as one of two projects to receive a portion of the MSTIP funding previously allocated to the I-5/99W Connector; and

WHEREAS, ORS 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all activities and functions that a party to the agreement has the authority to perform; and

WHEREAS, it is in the City of Sherwood's best interest to utilize MSTIP funds for the construction of Adams Avenue from Tualatin-Sherwood Road to Oregon Street; and

WHEREAS, the City desires to use \$4,000,000 in MSTIP 3C funds to construct Adams Avenue.

NOW, THEREFORE, THE CITY OF SHERWOOD RESOLVES AS FOLLOWS:

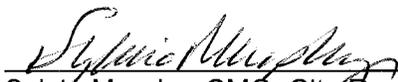
Section 1: The Sherwood City Council authorizes the City Manager to enter into an Intergovernmental Agreement (IGA), between the City of Sherwood, a municipal corporation, and Washington County, a political subdivision of the State of Oregon, relating to the use of MSTIP funds for the construction of SW Adams Avenue. A draft copy of the IGA is attached to this resolution as Exhibit A. Upon final review and approval of the IGA by the City Attorney, a final IGA will be forwarded to the City Manager for signature.

Section 2: This Resolution shall be in effect upon its approval and adoption.

Duly passed by the City Council this 3rd day of August 2010.


Keith S. Mays, Mayor

ATTEST:


Sylvia Murphy, CMC, City Recorder

MAJOR STREETS TRANSPORTATION IMPROVEMENT PROGRAM

INTERGOVERNMENTAL AGREEMENT

CITY OF SHERWOOD AND WASHINGTON COUNTY

ADAMS AVENUE PROJECT

This agreement is entered into between Washington County, a political subdivision of the State of Oregon, (COUNTY); and the City of Sherwood, a municipal corporation (CITY).

W I T N E S S E T H

RECITALS

WHEREAS, on Dec 20, 2005, the Board approved a list of projects to continue funding of the Major Streets Transportation Improvement Program 3C (MSTIP3C); and

WHEREAS, on February 2009, the planning results of the I-5/99W Connector Project study were forwarded to Metro for inclusion in the Regional Transportation Plan (RTP). Rather than a single limited access freeway project, the study recommended a series of improvements to existing roads and a few new road facilities within the study area. In June 2010, Metro adopted an updated RTP to include the recommendations from the I-5/99W Connector study; and

WHEREAS, on July 27th, 2010, the Board in coordination with the cities of Tualatin and Sherwood and Metro, identified Adams Avenue in Sherwood as one of two projects to receive a portion of the MSTIP funding previously allocated to the I-5/99W Connector; and

WHEREAS, ORS 190.010 authorizes agencies to enter into intergovernmental agreements for the performance of any or all activities and functions that a party to the agreement has the authority to perform; and

WHEREAS, it is the desire of the CITY to construct improvements on Adams Avenue, a CITY Collector Street, as described below, hereinafter called the PROJECT; and,

WHEREAS, the estimated cost of PROJECT is \$8,000,000 and the CITY desires to

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use up to \$4,000,000 in MSTIP 3C funds to complete the funding for the PROJECT,

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth below, the parties hereto agree as follows:

A. COUNTY OBLIGATIONS

1. COUNTY shall provide up to \$4,000,000 from MSTIP 3C for PROJECT construction costs incurred on and after the date the CITY awards a construction contract. County shall pay CITY the sum of \$250,000 at the time the PROJECT is bid and the CITY so notifies County. Following the initial payment, County shall pay monthly based on City invoices for construction costs incurred after the bid date by invoice detailing eligible costs.
2. The COUNTY shall reimburse the CITY for costs directly related to PROJECT construction, including construction, construction management and administration, subject to the maximum total compensation to the CITY under this Agreement. COUNTY funds shall be disbursed only to the CITY.
3. COUNTY hereby designates the Capital Project Management Division (CPM) Manager, Department of Land Use and Transportation, or designee, as the COUNTY's representative to administer this contract on behalf of County.
4. All billings received from the CITY must be approved by the CPM Manager, or designee, prior to presentation to the Finance Division for payment. The CPM shall have 30 days within which to review and approve submitted billings, and present to the Finance Division for payment. The COUNTY shall make payment within 30 days of approval of the invoice by the CPM Manager or designee.

B. CITY OBLIGATIONS

1. CITY shall perform all tasks necessary to implement the PROJECT, including:
 - Project Management
 - Planning and Public Involvement
 - Preliminary Design
 - Land Use Approval and Permitting
 - Environmental Permits
 - Right-of-Way Acquisition
 - Final Design
 - Administration and Management of Consultant Contract(s)
 - Bidding and Contract Award

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- Construction and Contract Administration, and including responsibility for administering any claims, disputes and litigation arising out of the PROJECT.
- Tracking costs and invoicing County on a monthly basis

CITY shall have sole responsibility under its contracts with selected contractors for the project.

2. CITY represents that it is the Public Contract Review Board for the CITY and, as such, shall perform all activities necessary to obtain materials and services required to complete the project. CITY shall comply with all applicable statutes pertaining to public contracts, and applicable contract review rules and procedures.
3. CITY hereby designates the City of Sherwood City Engineer or their designee, as the CITY's project manager, liaison with COUNTY, and representative to administer this contract on behalf of CITY.
4. CITY shall be responsible for all Project costs other than the construction costs to be paid by COUNTY above. Such costs include, but are not limited to, the cost of project design, permitting, and right of way acquisition.
5. CITY shall establish a unique project number and compile accurate cost accounting records, which shall be available for examination by COUNTY upon reasonable notice. CITY shall submit monthly invoices to COUNTY's CPM manager during project construction for reimbursement of eligible Project costs. Invoices shall each be accompanied by sufficient detail to enable the COUNTY to verify the accuracy of the charges and consistency of the charges with this Agreement. CITY shall submit its final invoice not later than 90 days following the completion of Project construction.
6. CITY shall require all contractors to include COUNTY as an additional insured on insurance coverage required for construction work performed on the Project.

C. PROJECT DESCRIPTION

The project consists of widening and constructing SW Adams Avenue in Sherwood to 4-5 lanes from Tualatin-Sherwood Road to Century Drive, 3 lanes from Century Drive to Oregon Street to City collector street standards, including sidewalk and multi-use path. Intersection improvement at Tualatin-Sherwood Road, Century Drive and Oregon Street. Oregon Street improvements west of the Adams intersection at

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Oregon are not a part of the Project and will not be included in invoicing to the County.

D. GENERAL TERMS

1. Within the limits of the Oregon Tort Claims Act, CITY and COUNTY shall hold harmless, indemnify and defend each other for any and all claims, damages, losses and expenses including, but not limited to, reasonable attorney's fees, in connection with any action, suit or claim, whether in tort or contract, arising out of or resulting from each party's performance or failure to perform any of the obligations herein. The County's sole role in the Project is to provide funding under the terms of this Agreement.
2. The parties agree to abide by all applicable laws and regulations regarding the handling and expenditure of public funds.
3. Either party shall be deemed to be in default if it fails to comply with any provision of this Agreement. CITY and COUNTY agree time is of the essence in the performance of any of the obligations within this Agreement as related to construction. Complaining party shall provide the other party with written notice of default and allow thirty (30) days within which to cure the defect.
4. In no event shall COUNTY's liability under this agreement exceed \$4,000,000.
5. COUNTY shall have no responsibility or liability for operation or maintenance of the project either during or after construction.
6. The term of the Agreement shall be from the date of execution until the completion of the work described herein, but not to exceed three years.
7. Except for breach, this Agreement may be canceled only upon mutual consent. Should the PROJECT be canceled or terminated for any reason beyond the control of the parties, the parties shall in good faith agree to such reasonable provisions for winding up the project and paying for costs incurred as are necessary.
8. Resolution of Disputes. If any dispute arising out of this Agreement cannot be resolved by the Project Managers from each party, County Administrator and City Manager will attempt to resolve the issue. If the County Administrator and CITY Manager are not able to resolve the dispute, the parties will submit the matter to mediation, each party paying its own costs and sharing equally in common costs.

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In the event the dispute is not resolved in mediation, the parties may agree to resolve it through arbitration, or may utilize any other legal process or remedy allowed by law.

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year hereinafter written.

DONE AND DATED this _____ day of _____, 2010.

WASHINGTON COUNTY, OREGON

CHAIR

DATE

RECORDING SECRETARY

APPROVED AS TO FORM:

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Loretta Skurdahl
Senior Assistant County Counsel

DATE

CITY OF SHERWOOD, OREGON

CITY MANAGER

DATE

CITY RECORDER

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